

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CARPENTERS HEALTH & SECURITY  
SECURITY TRUST OF WESTERN  
WASHINGTON, *et al.*,

Plaintiffs,

v.

IRVING DIEDRICH CONSTRUCTION, INC.,

Defendants.

Case No. C12-1223RSL

ORDER DENYING MOTION TO  
COMPEL

This matter comes before the Court on plaintiff's unopposed "Motion for Order to Compel Production of Records." Dkt. # 11. Plaintiff obtained a default against defendant Irving Diedrich Construction, Inc., and now seeks an order compelling defendant to produce documents necessary for the calculation of damages.

Plaintiff has not, however, shown that it is entitled to an order compelling production under Fed. R. Civ. P. 37. Plaintiff does not seek to compel a disclosure required by Fed. R. Civ. P. 26(c) and has not shown that relevant requests for production, interrogatories, requests for admission, or deposition notices were properly served. Although plaintiff's counsel asserts in her declaration that requests for production were served with the summons and complaint (Dkt. # 12 at ¶ 3), she has not produced a copy of the requests and neither her prior declaration in this matter (Dkt. # 9 at ¶ 2) nor the "Affidavit of Mailing of Summons and


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1 Complaint” (Dkt. # 4) mention their existence or service. The limited information provided  
2 makes it impossible for the Court to determine whether the records plaintiff now seeks are within  
3 the scope of the purported requests for production.

4 Even if the Court assumes that discovery requests were served and that they  
5 covered the documents plaintiff now seeks to obtain, the requests were apparently served in  
6 contravention of Fed. R. Civ. P. 26(d)(1). There is no evidence that the parties have engaged in  
7 a Rule 26(f) conference, and plaintiff has not obtained permission of the Court to initiate  
8 discovery prior to that conference. Thus, discovery served with the summons and complaint was  
9 unauthorized and premature. In the circumstances presented here, the Court declines to enforce  
10 discovery requests served in contravention of the governing rules.

11  
12 For all of the foregoing reasons, plaintiff’s motion to compel is DENIED. Plaintiff  
13 is hereby authorized to serve discovery on defendant notwithstanding the fact that the parties  
14 have not conferred as required by Fed. R. Civ. P. 26(f).

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17 Dated this 7th day of January, 2013.

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19 Robert S. Lasnik  
20 United States District Judge  
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